

Arbitration Decisions

July 7, 1970

DECISION OF THE ARBITRATION APPEALS COMMITTEE
ARBITRATION CASE NO. 1508

PLAINTIFF: Peavey Company, Alton, Illinois

DEFENDANT: C. B. Fox Co., New Orleans, Louisiana

This dispute involves an application of a barge of corn, against a previously made contract, between Plaintiff, seller, and Defendant, buyer. The contract called for shipment of a barge of corn on interior grade and destination weight.

The barge in question, UM 527, was applied by Plaintiff to Defendant with a grade certificate dated November 29, 1967 issued at Kankakee, Illinois (furnished to Plaintiff by a previous seller).

Plaintiff forwarded this certificate, with valid bill of lading, to Defendant in the normal manner of fulfillment of such barge contracts.

Later on Plaintiff received another - later - grade certificate from the previous seller (which was declared as legally applicable in another arbitration between Plaintiff and the previous seller, but is not part of this arbitration).

Plaintiff asked Defendant to disregard the first grade certificate forwarded to Defendant and to make settlement on the basis of this later grade certificate.

According to Rule 7 of the Barge Trade Rules, a seller has fulfilled his contract obligation to the buyer, in case of an interior grade transaction, when he tenders to the buyer a valid bill of lading and an official grade certificate.

Once this is done, the buyer has to furnish an official unload weight to the seller, but otherwise the transaction is completed. The seller has no further rights and no further obligations.

It is the unanimous decision of the arbitration committee that, therefore, the seller cannot, later on, demand settlement on the basis of a later obtained grade.

Therefore, this arbitration committee finds in favor of the Defendant, C. B. Fox Company.

Arbitration Committee of the National
Grain and Feed Association

/S/ Kurt Horn, Chairman
/S/ James A. Layton
/S/ H. R. Schmid

Dated April 13, 1970

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The Arbitration Appeals Committee unanimously affirms the finding of the Arbitration Committee of the National Grain and Feed Association, which found in favor of the Defendant, C. B. Fox Company.

/S/ R. M. Scoular, Chairman
/S/ Madison Clement
/S/ H. V. Nootbaar
/S/ Sam L. Rice, Jr.

Dated June 5, 1970